



STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

**OFFICE OF CABLE
TELEVISION**

IN THE MATTER OF THE JOINT PETITION OF)
PATRIOT MEDIA & COMMUNICATIONS CNJ, LLC)
AND CSC TKR, INC. D/B/A CABLEVISION OF)
MORRIS FOR APPROVAL OF THE TRANSFER OF)
CERTIFICATES OF APPROVAL, AND FOR THE)
FOR APPROVAL OF THE SALE OF ASSETS)

ORDER OF APPROVAL

DOCKET NO. CM03060464

SEE SERVICE LIST

BY THE BOARD

On June 17, 2003, Patriot Media & Communications CNJ, Inc. (Patriot) and CSC TKR, Inc., d/b/a Cablevision of Morris (CSC TKR) (jointly referred to as the Petitioners), petitioned the Board of Public Utilities (Board), pursuant to N.J.S.A. 48:5A-40 and 19, and N.J.A.C. 14:17-6.10 and 6.8, for approval of the transfer of Certificates of Approval (COA) and approval of the sale of certain assets (Transaction), from CSC TKR to Patriot, pursuant to an Asset Purchase Agreement (Purchase Agreement) entered into by the Petitioners on May 30, 2003.

CSC TKR, a Delaware Corporation, owns and operates a cable television system serving twenty-nine (29) municipalities in Morris, Sussex and Warren counties in New Jersey. In addition to Cablevision of Morris, CSC TKR, Inc. also includes Cablevision of Elizabeth, Cablevision of Hamilton and Cablevision of Raritan Valley. Those divisions of CSC TKR, Inc., however, are not directly involved in the Transaction.

The transferor and seller, CSC TKR, is a wholly owned subsidiary of CSC Holdings, Inc., which in turn is a wholly owned subsidiary of Cablevision Systems Corp., (Cablevision) both Delaware Corporations. Cablevision, headquartered at 1111 Stewart Avenue, Bethpage, NY 11714, is the sixth largest Multiple Systems Operator (MSO) in the United States, serving, through its various subsidiaries, approximately 3,000,000 subscribers in New York, New Jersey and Connecticut. The seller owns certain broadband communications assets in Mendham Township, Mendham Borough and Long Hill Township, New Jersey that will be sold to Patriot.

In 2001, the Board approved the issuance to CSC TKR of COAs for Mendham Borough, Mendham Township and Long Hill Township. These COAs will be transferred to Patriot in accordance with the Purchase Agreement. CSC TKR has partially constructed plant in these municipalities, but except for two high-speed data customers, has not provided service.

Patriot, a Delaware Limited Liability Company, owns and operates a cable television system serving thirty-one (31) municipalities in Hunterdon, Somerset, Morris and Mercer Counties, New Jersey.

The transferee and buyer, Patriot, is a wholly owned subsidiary of Patriot Media Holdings, LLC, a Delaware Limited Liability Company, that is owned by Simmons/Patriot Holdings, LLC, Spectrum/Patriot Media, Inc., and Spire Capital Partners, L.P., Spire Capital Partners Parallel Fund, L.P., Spire Investments, LLC and Spire-Patriot Corporation, all Delaware entities (Spire Capital Group)

On February 5 and 20, 2003, the Board approved the acquisition by Patriot of the COAs and related assets and partnership interests of RCN Telecom Services, Inc. (RCN) and its partners, resulting in Patriot holding COAs and certain related assets in 31 municipalities in Somerset, Hunterdon, Morris and Mercer Counties New Jersey, including Mendham Borough, Mendham Township, and Long Hill Township, the three municipalities where the CSC TKR's assets that are being purchased by Patriot are located. As set forth in the Board's approvals, Patriot is obligated to upgrade its cable system throughout its service territory.

In accordance with the Purchase Agreement, CSC TKR agrees that Patriot shall have the right, at its sole cost and expense to 1) splice unspliced plant; 2) preactivate and test the plant; and 3) overlash additional fiber on the plant and reconfigure CSC TKR's existing fiber provided that these activities are coordinated with the seller and that such activities shall not conflict with or cause a breach under any pole attachment agreements.

Pursuant to the Purchase Agreement, by and among CSC TKR, Inc., Cablevision Lightpath, Inc., (Lightpath) and Patriot, CSC TKR will transfer to Patriot the Certificates of Approval (COA) and other assets in the Mendham Borough, Mendham Township and Long Hill Township. According to CSC TKR, Lightpath secured certain licenses, permits and rights of way associated with the placement of assets to be used by CSC TKR in CSC TKR's provision of cable television service to these communities. Although these rights will be transferred to Patriot under the terms of the Agreement, Lightpath is not a party to this Joint Petition. Lightpath's only involvement is to arrange to transfer pole attachment licenses within the service territory to Patriot.

Under the terms of the Purchase Agreement, Patriot will pay CSC TKR the purchase price in the amount of \$3.525 million. The payment will take the form of a wire transfer on the date of closing, which is expected to take place in September 2003. However, in order to fully complete and activate the systems, which are currently only 59% complete, Patriot estimates it would incur additional costs of \$2.33 million consisting of \$400 thousand estimated to complete the CSC TKR plant and approximately \$1.93 million to complete the rebuild of the RCN plant not replaced by the CSC TKR plant. Of the \$1.93 million, \$390 thousand has already been spent, leaving a balance of approximately \$1.54 million. Therefore, Patriot's total investment in these systems would aggregate to \$5.856 million.

Embedded in the purchase price are purchase costs of 15.6 miles of cable plant miles that CSC TKR has built in areas where Patriot does not currently have its own cable plant. These are new build miles for Patriot in low-density areas of Mendham Borough and Mendham Township that will

expand Patriot's service area. Also included is additional cost above and beyond the cost for the 15.6 miles that benefits Patriot in accomplishing three major goals: 1) it allows Patriot to bring new services to market several months ahead of the original rebuild/upgrade schedule, thus benefiting customers sooner and generating incremental revenues for Patriot; 2) Patriot will inherit CSC TKR's franchises in these communities thereby giving long-term stability to Patriot's business and saving Patriot both the time and expense of standard franchise renewal, which should include Local Origination costs in excess of \$100,000 associated with these franchises that Patriot will not have to duplicate; and 3) Patriot will not have to disrupt local residents, governments and police departments to construct the underground plant a second time, thereby benefiting everyone in these communities. During the review of the petition, all affected municipalities were notified of the proposed transfer. No objections were filed.

In response to Staff's data request, CSC TKR indicates that although the assets being transferred are pledged as part of the credit facility approved by the Board in Docket No. CF98030150, the assets being sold do not comprise a material portion of the total assets pledged and may be transferred without specific bank authorization. After the Transaction's completion, Patriot will incorporate the acquired assets into its existing cable distribution plant.

Patriot asserts that the Transaction will accelerate provision of upgraded services in these communities, such as digital programming, two way high-speed data service, and increased selections available.

Following submission of the petition, the Petitioners provided written responses to written requests for additional information regarding the impact of the transfer of assets and Certificates of Approval on Patriot's and CSC TKR's cable television customers. In addition, the Petitioners provided information supporting the ability of Patriot to continue to provide safe, adequate and proper service subsequent to the transfer. During that review, documentation was produced that indicated that Spectrum/Patriot Media, Inc., the parent corporation of Patriot, transferred an 11% interest in Patriot Media Holdings, LLC to Spire Capital Group. Patriot did not seek Board approval for this transfer. As articulated by the Board in I/M/O The Proposed Corporate Restructuring of Certain Affiliates of Tele-Communications, Inc., BPU Docket No. CM910121496, dated December 19, 1990, the Board has the authority to scrutinize proposed transactions of holding companies which own, operate, or control a New Jersey cable television system to ascertain that the proposed transaction will not adversely impact upon the financial integrity of the New Jersey cable company and to insure that the cable company will remain in a position to provide safe, adequate and proper service to its customers. The Board further noted that "transactions of this sort should be brought to the Board for review on a timely basis." (Id., ¶ 7.) Nevertheless, Spectrum/Patriot Media, Inc failed to file with the Board for the necessary review and approval.

Finally, by letter dated September 18, 2003, the Division of the Ratepayer Advocate (Ratepayer Advocate) filed comments indicating that it does not oppose the Petition. The Ratepayer Advocate states that the Petitioners have provided the required information in support of the petition.

After a review of this matter, the Board HEREBY FINDS the Transaction is to be made in accordance with law, is in the public interest and there will be no adverse impact on the financial integrity of the affected cable companies. The Board FURTHER FINDS that Patriot appears to possess the financial resources and technical qualifications to ensure the Board of Patriot's ability to provide safe, adequate and proper service. Moreover, the Board has continuing authority to regulate the CATV System's basic cable service and equipment and installation rates and enforce the CATV system's franchise obligations. In view of the foregoing, the Board HEREBY ORDERS that Petitioners be and are HEREBY AUTHORIZED to transfer CSC TKR's Certificates of Approvals and assets to

Patriot, to allow Patriot's certificates in the affected municipalities to expire once the transfer has been fully completed and to execute all documents related thereto. This Order is subject to the following:

- 1) This Order shall not affect or in any way limit the exercise of the authority of the Board or the Office of Cable Television or the State of New Jersey in any future petition or in any proceeding regarding rates, cost of service, franchises, services, financing, accounting, capitalization, depreciation, maintenance or any other matters affecting the Petitioners.
- 2) This Order shall not be construed as directly or indirectly fixing, for any purpose whatsoever, any value of tangible or intangible assets now owned or hereinafter to be owned by Petitioners.
- 3) This Order shall not be construed as superseding pending rate proceedings involving any of the petitioners.
- 4) The Petitioners shall notify the Board, in writing, within five (5) days of the date on which each of the Transactions is consummated.
- 5) Consummation of the above referenced Transactions must take place not later than 90 days from the date of this Order, unless otherwise extended by the Board.
- 6) Petitioners shall file a Certification with the Board within 30 days of the closing attesting to the lack of material deviation in the executed closing documents or final terms from those terms and conditions described herein and /or submitted to the Board with the Petition. Any such material deviation in the executed closing documents shall render this Order voidable by the Board.
- 7) Petitioners shall file journal entries with the Board to record the transactions approved herein within 45 days of final closing.
- 8) Patriot shall be liable for the State assessment, pursuant to N.J.S.A. 48:5A-32, and municipal franchise fees, pursuant to N.J.S.A. 48:5A-30, due and owing as of the statutory payment dates for the preceding calendar year relating to the CATV System's assets being acquired pursuant to the Purchase Agreement approved herein.
- 9) All franchise obligations, commitments and agreements shall continue in force in all respects under Patriot ownership.
- 10) Patriot shall file within 15 days of the closing of the Transaction a revised tariff for cable television service identifying the applicable rates (whether rebuild or non-rebuild) for each system listed under Territory Served.

- 11) All of the obligations imposed upon CSC TKR under the Certificates of Approval issued by the Board for the municipalities served by CSC TKR in this instant matter, or by any and all Offers of Settlement involving any Cablevision system, or other commitments made by CSC TKR relating to its operation in these three municipalities, including, but not limited to all Orders issued by the Board in Docket No. CO03090707 and/or relating to any and all of the terms, conditions and requirements of any Certificate of Approval, Offers of Settlement, rates or other matters within the jurisdiction of the Board.
- 12) All representations and Commitments made by CSC TKR to the three municipalities serviced by the CATV System and the Board are fully enforceable against Patriot as if set forth at length herein and shall also be assumed by Patriot.
- 13) Approval of the transfer of assets and Certificates of Approval herein shall not constitute automatic approval of any business contract referenced in the Agreement or supporting documents, if Board approval pursuant to N.J.S.A. 48:5A-1 et seq. would otherwise be required.
- 14) CSC TKR shall provide the Board lien releases from all CSC TKR's creditors for all assets transferred by CSC TKR not later than thirty (30) days after the Closing Date.
- 15) Within ninety (90) days from the date of closing of the proposed Transaction, Petitioners shall certify, for each system under their control, as well as each system to be acquired/transferred as part of this Docket the following items:
 - a. That all New Jersey cable television systems under their respective ownership and/or control, are in full compliance with Article 820 of the National Electrical Code as previously certified.
 - b. That all Board Ordered requirements or conditions arising out of any and all Offers of Settlement and Certificates of Approval have been or are being satisfied within the time frame set forth therein.
 - c. That sufficient funds will be available to fund all outstanding network extensions, rebuilds, upgrades, or other construction commitments arising from a system's Primary Service Area (PSA), Certificate of Approval, Municipal Consent, Letters of Intent or other Orders or agreements, including but not limited to the Board Order in Docket No. CX01070460 and documentation provided subsequent thereto.

- d. That billing records are available for all customers in New Jersey cable television systems under their respective ownership and/or control and to provide the Board and its OCTV with copies of such records for three (3) years in accordance with N.J.A.C. 14:18-3.7.

Should Petitioners be unable to complete their review of their respective systems within 90 days of closing, each petitioner shall file a certified report with the OCTV prior to the expiration of the 90 day period setting forth its progress on the requirements set forth above in paragraphs a through d. Petitioners will at that time have the option of requesting an extension of time of up to 90 days to finalize the review of their systems and certify to same with regard to the provisions of paragraphs a through d set forth above.

- 16) Patriot Media and Communications CNJ, LLC shall continue to diligently pursue timely completion by December 2004 of all plant construction, including rebuilds and upgrades to the areas as required pursuant to the Board's Order Approving the Consent Agreement in Docket No. CX01070460, and shall continue to provide the OCTV with monthly construction status reports for each municipality.
- 17) Upon acceptance by the Office of Cable Television of a Certification that all construction commitments have been satisfied, the financial and technical transition is complete and the purchased or acquired plant is fully activated, Patriot shall be allowed to discontinue service required under the franchise obligations and the Certificates of Approval which Patriot acquired from RCN Telecom Services. Those acquired certificates of Approval shall be held in abeyance until expiration, and shall be superseded by the obligations and commitments of the Cablevision certificates transferred under this Order.

Patriot is FURTHER ORDERED to file with the Board, within thirty (30) days from the date of this Order, an application to determine if the Transaction whereby Spectrum/Patriot Media, Inc. transferred an 11% interest in Patriot Media Holdings, LLC to Spire Capital Group required prior Board approval. In the event that the Board determines that approval was required, the Board reserves the right to invoke penalties or other administrative actions.

All parties to the Transactions shall comply with the New Jersey Cable Television Act and applicable sections of the New Jersey Administrative Code.

DATED: September 25, 2003

BOARD OF PUBLIC UTILITIES
BY:

(signed)

JEANNE M. FOX
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CAROL J. MURPHY
COMMISSIONER

(signed)

CONNIE O. HUGHES
COMMISSIONER

(signed)

JACK ALTER
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO
SECRETARY

**IN THE MATTER OF
THE PETITION OF CSC TKR, INC. AND PATRIOT MEDIA AND COMMUNICATION
CNJ, LLC FOR APPROVAL OF THE TRANSFER OF CERTIFICATES OF APPROVAL
AND FOR THE SALE OF ASSETS
DOCKET NO. CM03060464**

<p>William Harla, Esq. DeCotiis, FitzPatrick, Cole & Wisler, LLP Glenpointe Centre West 500 Frank W. Burr Boulevard Teaneck, NJ 07666</p> <p>Celeste M. Fasone, Director Office of Cable Television Board of Public Utilities Two Gateway Center Newark, NJ 07102</p> <p>Charles A. Russell, Esq., Deputy Director Office of Cable Television Board of Public Utilities Two Gateway Center Newark, NJ 07102</p> <p>Kenneth J. Sheehan, Esq. Deputy Attorney General Division of Law State of New Jersey 124 Halsey Street Newark, NJ 07102</p> <p>Nueva D. Elma, Chief Jeffrey Kaufman Robert Belton Board of Public Utilities Office of Cable Television Bureau of Accounts Two Gateway Center Newark, NJ 07102</p> <p>Karen A. Marlowe Nancy J. Wolf Board of Public Utilities Office of Cable Television Bureau of State and Local Planning Two Gateway Center Newark, NJ 07102</p>	<p>William H. Furlong, Chief Richard Wagenblast Bureau of Inspection & Enforcement Office of Cable Television Board of Public Utilities Two Gateway Center Newark, NJ 07102</p> <p>Dr. Fred S. Grygiel Chief Economist Board of Public Utilities Two Gateway Center Newark, NJ 07102</p> <p>Carol Entenza-Artale, Esq. Lawanda Gilbert, Esq. Legal Specialists Board of Public Utilities Two Gateway Center Newark, NJ 07102</p> <p>Seema M. Singh, Esq. Acting Director and Ratepayer Advocate Division of Ratepayer Advocate 31 Clinton Street Newark, NJ 07102</p> <p>Paul E. Flanagan, Esq. McDonough, Bauman, Teehan & Flanagan 658 Ridgewood Road Maplewood, New Jersey 07040</p>
---	--